

In the Claims:

Please cancel claims 1-4, 8-13, 17-20, 30-33, 37-39, and 42-45, and replace claims 5, 14, 34, and 40, all as shown below. All pending claims are reproduced below, including those that remain unchanged.

1. (Canceled)

2. (Canceled)

3. (Canceled)

4. (Canceled)

5. (Currently Amended) ~~An the implant of claim 1 adapted to be placed between spinous processes comprising:~~

a spacer that is adapted to fit between spinous processes, the spacer including a first portion and a second portion movable relative to each other, and

a means for adjusting the height of the spacer in order to adjust the spacing between the spinous processes;

wherein the adjusting means ~~includes the spacer of the implant further comprises~~ includes a slotted sphere.

6. (Original) The implant of claim 5 wherein the slotted sphere engages the first and second portion of the spacer to maintain the profile height.

7. (Original) The implant of claim 5 wherein the slotted sphere engages a screw extending from between first and second portion of the spacer to maintain the profile height.

8. (Canceled)

9. (Canceled)

10. (Canceled)

11. (Canceled)

12. (Canceled)

13. (Canceled)

14. (Currently Amended) An The implant of claim 11 adapted to be placed between spinous processes comprising:

a body having a shaft extending therefrom;

a spacer pivotally mounted on the body, the spacer including a first portion and a second portion; and

a mechanism positioned between the first portion and the second portion that can adjust a space between the first and second portion; and

wherein the mechanism of the implant further comprises a slotted sphere.

15. (Original) The implant of claim 14 wherein the slotted sphere engages the first and second portion of the spacer to maintain the profile height.

16. (Original) The implant of claim 14 wherein the slotted sphere engages a screw extending from the hinge between the first and second portion of the spacer to maintain the profile height.

17. (Canceled)

18. (Canceled)

19. (Canceled)

20. (Canceled)

21. (Original) An implant adapted to be placed between spinous processes comprising:

a body having a shaft extending therefrom;

a first wing extending from the shaft and adapted to be placed adjacent a first and a second spinous process;

a tissue expander extending from the distal end of the shaft;

a spacer that is rotatably mounted to the shaft, the spacer having a first portion and a second portion; and

a mechanism that is mounted to the spacer and that can adjust the spacing between the first and second portions of the spacer.

22. (Original) The implant of claim 21 wherein the spacer is elliptical in shape with the first portion and the second portion divided about a major axis of the elliptical shaped spacer.

23. (Original) The implant of claim 21 wherein the first portion and the second portion of the spacer are connected by a hinge.

24. (Original) The implant of claim 21 wherein the mechanism of the implant further comprises a slotted sphere.

25. (Original) The implant of claim 24 wherein the slotted sphere engages the first and second portion of the spacer to maintain the profile height.

26. (Original) The implant of claim 24 wherein the slotted sphere engages a screw extending from between the first and second portion of the spacer to maintain the profile height.

27. (Original) The implant of claim 21 wherein the mechanism of the implant further comprises a jack.

28. (Original) The implant of claim 27 wherein the jack engages the first and second portion of the spacer to maintain the profile height.

29. (Original) The implant of claim 27 where the said jack is adjustable to a greater profile and a lesser profile by turning a screw in one of a first direction and a second direction.

30. (Canceled)

31. (Canceled)

32. (Canceled)

33. (Canceled)

34. (Currently Amended) An The implant of claim 30 adapted to be placed between spinous processes comprising:

a body having a shaft extending therefrom; and
a spacer that is rotatably mounted on the shaft,
wherein the spacer has an adjustable profile; and

wherein the spacer of the implant further comprises a slotted sphere.

35. (Original) The implant of claim 34 wherein the slotted sphere engages the first and second portion of the spacer to maintain the profile height.

36. (Original) The implant of claim 34 wherein the slotted sphere engages a screw to maintain the profile height.

37. (Canceled)

38. (Canceled)

39. (Canceled)

40. (Currently Amended) An The implant of claim 39 adapted to be placed between spinous processes comprising:

a body having a shaft extending therefrom; and

a spacer that is rotatably mounted on the shaft;

wherein the spacer has a hinged body having a first portion and a second portion; and

a device to adjust a space between the first portion and the second portion;

wherein the device of the implant further comprises a slotted sphere.

41. (Original) The implant of claim 40 wherein the slotted sphere engages the first and second portion of the spacer to maintain the profile height.

42. (Canceled)

43. (Canceled)

44. (Canceled)

45. (Canceled)